

MINUTES
Texas Board of Health Meeting
February 21, 2002

The February 21, 2002, meeting of the Texas Board of Health (Board) was called to order at 1:30 p.m., at the Texas Department of Health (TDH), 1100 West 49th Street, Room M-739, Austin, Texas. Mario R. Anzaldúa, M.D., Chair, presided. A quorum was present with members George H. McCleskey, Vice-Chair, Amanullah Khan, M.D., Ph.D., and Raymond Hannigan.

Registered Guests

Regina Martin, Legislative Budget Board
Lisa Cruttenden, Merck Vaccine Division
Tina Cambere, Merck Vaccine Division
Susan Jones, Texas Hospital Association
Erin Florence, OZ Systems
Rosie McStay, Texas Children's Hospital
Sister Helen Brewer, Seton Healthcare Network – Children's
Susan Murphree, Children's Policy Council
Robert Warren, Chair, Children with Special Health Care Needs (CSHCN) Advisory Committee
Candie Phipps, TPS
Colleen Horton, Center for Disability Studies
Robin Chandler, Representative Glen Maxey's Office
Rhonda Fox, Mother of a child with special health care needs and a member of CSHCN
Advisory Committee
Polly Browning, Lifelines Eating Disorder Foundation
Sarah Richter
Lillie Gilligan, Glaxo-Smith-Kline
Glen Gary, TRA
Thomas Bleich, Legislative Budget Board
Daniel Starr, LBJ School of Public Affairs

Dr. Anzaldúa welcomed the guests. Also in attendance at the meeting were Eduardo J. Sanchez, M.D., M.P.H., Commissioner of Health, and other key staff members of TDH.

ON A MOTION MADE BY DR. KHAN AND SECONDED BY MR. MCCLESKEY, THE MINUTES OF THE JANUARY 18, 2002 BOARD OF HEALTH MEETING WERE APPROVED.

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY DR. KHAN, THE MINUTES OF THE JANUARY 17, 2002 REGULATORY COMMITTEE MEETING WERE APPROVED.

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MR. MCCLESKEY, THE MINUTES OF THE JANUARY 17, 2002 HUMAN RESOURCES COMMITTEE MEETING WERE APPROVED.

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY DR. KHAN, THE MINUTES OF THE JANUARY 17, 2002 HEALTH AND CLINICAL SERVICES COMMITTEE MEETING WERE APPROVED.

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MR. MCCLESKEY, THE MINUTES OF THE JANUARY 17, 2002 STRATEGIC MANAGEMENT COMMITTEE MEETING WERE APPROVED.

A Resolution was presented in support of Eating Disorder Awareness Week. (*Attachment I*)

A Resolution was presented to recognize the members of the Bioterrorism Workgroup for their accomplishments. (*Attachment II*)

Dr. Sanchez spoke regarding recent activities as Commissioner and presented the Commissioner's Report, a copy of which is attached to and made a part of these Minutes. (*Attachment III*)

Ms. Jayne Nussbaum, Director, Office of Governmental Relations, gave a brief overview of TDH legislative activity. Lists were handed out of legislative courtesy visits made by Dr. Sanchez and Mr. Gary Bego, Chief Operations Officer (*Attachment IV*), 2002 interim hearings and briefings (*Attachments V*), and a timeline for developing TDH exceptional items and legislative initiatives for FY 2004 – 2005/ 78th Legislature (*Attachment VI*).

Charles E. Bell, M.D, Executive Deputy Commissioner, updated the Board regarding the TDH Bioterrorism Workgroup activities.

Dr. Khan commended and thanked Doctors Sanchez and Bell on their leadership and the accomplishments of the Bioterrorism Workgroup. He stated that the Texas Department of Health is ahead of most states in the nation in their preparedness for bioterrorism.

Mr. Gary Bego, Chief Operations Officer, gave an update on the Health and Human Services Administrative System (HHSAS/PeopleSoft) project that was implemented on September 4, 2001. Work has been done to improve and refine this system. Once Phase I, the financial module, is running smoothly, Phase II, the human resources module will be implemented.

Mr. Bego presented an update on the Business Improvement Plan by introducing the Business Improvement Team Manager, Bobby Lane and Joe Walton, the team member. Rider 2 of the TDH Appropriations Bill requires that TDH submit, on a quarterly basis, a report on the status of the progress made on the Business Improvement Plan to leadership offices, the Health and Human Services Commission and the State Auditor's Office. Work began on this project in January 2002. The next report is due February 28, 2002. A copy of the status report is attached to and made part of these Minutes. (*Attachment VII*)

A discussion followed among the Board members and Dr. Sanchez regarding the Contingency Plan. No action was taken.

Mr. Mark Scott, Director of Internal Audit, reported that the 2002 Audit Plan is on track and gave a summary on the recent internal audit activities, which included audits of TDH conducted by outside auditors, the third party audit function of TDH contractors, and the internal audit that was conducted of the TDH Health and Human Services Administration System (HHSAS) implementation.

Mr. Mark V. Gregg, M.A., Director, Public Health Professional Education (PHPE) Program, reported that the program has revised its mission statement to include new standards required by the Accreditation Council for continuing Medical Education (ACCME). Mr. Gregg requested approval of the revised mission statement.

ON A MOTION MADE BY DR. KHAN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE REVISED CONTINUING MEDICAL EDUCATION PROGRAM MISSION STATEMENT.

Ms. Jann Melton-Kissel, Acting Chief, Bureau of Children's Health, reported that the Children with Special Health Care Needs Program (CSHCN) has projected a budget shortfall for FY 2002 and FY 2003 and has implemented a waiting list for medical and family support services. The Health and Human Services Commission (HHSC) conducted a fiscal and management review of the program and developed a report that outlines 18 recommendations related to administrative functions, contract and grants, medical services and financial management. A CSHCN Implementation Team has been created and charged with conducting an in-depth review of the HHSC recommendations and developing an implementation plan. The CSHCN Advisory Committee has two members serving on the CSHCN Implementation Team, Robert W. Warren, M.D., Ph.D., M.P.H and Wanda Fox, and has provided documents for Board consideration. (*Attachment VIII*)

Robert W. Warren, M.D., Ph.D., M.P.H., Chair, Children with Special Health Care Needs Advisory Committee presented a brief statement regarding the CSHCN Program and the analysis and impact of the HHSC recommendations on the program on behalf of the Advisory Committee and other stakeholders. (*Attachment IX*)

Dr. Anzaldua recognized persons to give public comment regarding the CSHCN Program.

Sister Helen Brewer, Seton Healthcare Network, spoke for Children's Hospital of Austin in favor of continuing services for children with special health care needs without reductions in program funds. (*Attachment X*)

Ms. Susan Murphree, Family Representative on the Children's Policy Council, spoke in favor of continuing services for children with special health care needs without reductions in program funds. (*Attachment XI*)

Ms. Susan Jones, Director, Health Care Policy, Texas Hospital Association, spoke in favor of continuing services for children with special health care needs without reductions in program funds. (*Attachment XII*)

Ms. Rhonda Fox, mother of a child with special health care needs and member of the CSHCN Advisory Committee, spoke in favor of continuing services for children with special health care needs without reductions in program funds.

Ms. Colleen Horton, Center for Disability Studies at the University of Texas at Austin, and the mother of a young child with developmental disabilities and special health care needs, spoke on behalf of the Center for Disability Studies at UT and the Disability Policy Consortium. She spoke in favor of continuing services for children with special health care needs without reductions in program funds.

(Attachment XIII)

A discussion followed among the Board members and Dr. Sanchez. Questions were directed to staff and Dr. Warren. No action was taken.

Mr. Hannigan applauded Dr. Robert Warren on taking an active role as the Chair of the CSHCN Advisory Committee.

Dr. Anzaldua called a recess at 3:40 p.m.

The meeting reconvened at 3:50 p.m.

Rick Danko, Dr. P.H., Office of Strategic Health Planning, presented the update on development of the Texas Department of Health's Strategic Plan and Budget Structure for 2003 - 2007.

(Attachment XIV)

Rick Danko, Dr. P.H., Office of Strategic Health Planning, presented the FY 2002 First Quarter Progress on the Health and Human Services Strategic Priorities and Streamlining Report.

(Attachment XV)

Dr. Anzaldua announced a recess at 4:04 p.m.

Dr. Anzaldua reconvened the meeting at 4:15 p.m. Other Board members in attendance were Ms. Margo Scholin, Mr. George McCleskey, and Mr. Raymond Hannigan.

Celine Hanson, M.D., Chief, Bureau of HIV and STD Prevention, requested approval of appointments for a physician, pharmacist and a person with AIDS to the Texas HIV Medication Advisory Committee whose terms expire on December 31, 2007. *(Attachment XVI)*

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED THE APPOINTMENTS OF THE FOLLOWING INDIVIDUALS TO THE TEXAS HIV MEDICATION ADVISORY COMMITTEE WITH THE TERMS TO EXPIRE ON DECEMBER 31, 2007:

Physician: Fernando Garcia, M.D., Public Health Region 11

Pharmacist: Stanley J. Britten, R.Ph., Public Health Region 1

Person with AIDS: Susan J. Gibson, Public Health Region 2/3

Mr. Steven C. McAndrew, Director, Retail Foods Division, requested approval of proposed rules concerning accreditation of food management programs and certification of food managers. (*Attachment XVII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED REPEAL AND NEW RULES CONCERNING THE ACCREDITATION OF FOOD MANAGMENET PROGRAMS AND CERTIFICAITON OF FOOD MANAGERS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD.

Mr. John L. Gower, Director of Programs, Drugs and Medical Devices Division, Bureau of Food and Drug Safety, requested approval of proposed rules concerning licensing of wholesale distributors of drugs including good manufacturing practices. (*Attachment XVIII*)

ON A MOTION MADE BY MS. SCOLIN AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED THE PROPOSED AMENDMENTS TO RULES CONCERNING THE LICENSING OF WHOLESALE DISTRIBUTORS OF DRUGS, INLCUDING GOOD MANUFACTURING PRACTICES, FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD.

Mr. Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, requested final adoption of a rule concerning standards for protection against radiation from radioactive material. (*Attachment XIX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE RULE CONCERNING STANDARDS FOR PROTECTION AGAINST RADIATION FROM RADIOACTIVE MATERIAL TO BE EFFECTIVE APRIL 1, 2002.

Ms. Becky Berryhill, Chief, Bureau of Licensing and Compliance, requested adoption of an

amendment concerning the voluntary registration and regulation of dispensing opticians to increase fees to cover the program costs. (*Attachment XX*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED AN ORDER ADOPTING THE RULE CONCERNING THE VOLUNTARY REGISTRATION AND REGULATION OF DISPENSING OPTICIANS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Becky Berryhill, Chief, Bureau of Licensing and Compliance, requested approval of the final adoption of an amendment and a new rule concerning the registration of code enforcement officers as required by HB 2437. (*Attachment XXI*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING THE REGISTRATION OF CODE ENFORCEMENT OFFICERS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Becky Berryhill, Chief, Bureau of Licensing and Compliance, requested approval of the final adoption of a rule concerning the regulation of private psychiatric hospitals and crisis stabilization units to increase fees to cover program costs. (*Attachment XXII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE RULE CONCERNING THE REGULATION OF PRIVATE PSYCHIATRIC HOSPITALS AND CRISIS STABILIZATION UNITS TO BE EFFECTIVE APRIL 1, 2002.

Mr. Bob Blackwell, Meat Safety Assurance Division, Bureau of Food and Drug Safety,

requested approval of the final adoption of amendments to rules concerning meat and poultry inspection as a result of SB 766 and changes to federal regulations. (*Attachment XXIII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING MEAT AND POULTRY INSPECTION TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Joan Carol Bates, Assistant General Counsel, Office of General Counsel, requested approval of final rules concerning the Texas Department of Health privacy policy and an individual's right to correct information collected by TDH as required by HB 1922. (*Attachment XXIV*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED FINAL RULES CONCERNING TDH'S PRIVACY POLICY AND AN INDIVIDUAL'S RIGHT TO REQUEST CORRECTION OF INCORRECT INFORMATION TO BECOME EFFECTIVE 20 DAYS AFTER THE RULES ARE FILED WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Mary Ann Slavin, Assistant General Counsel, Office of General Counsel, requested approval of final rules concerning procedures in the negotiation and mediation of breach of contract claims as necessary to comply with Government Code §2260.052. (*Attachment XXV*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING PROCEDURES IN THE NEGOTIATION AND MEDIATION OF CERTAIN BREACH OF CONTRACT CLAIMS TO BECOME EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. Mike Montgomery, Chief, Bureau of Nutrition Services, requested approval of the final

adoption of amendments to the rules concerning the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) as required by federal law. (*Attachment XXVI*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING THE AMENDMENTS TO THE RULES CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC) TO BE EFFECTIVE APRIL 1, 2002.

Mr. Phillip W. Walker, Chief, Bureau of Kidney Health Care, requested approval of final adoption of rules concerning the Epilepsy Program as required by Government Code, §2001.039. (*Attachment XXVII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING THE EPILEPSY PROGRAM TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Jane Mahlow, D.V.M., M.S., Director, Zoonosis Control Division, requested approval of final adoption of the repeal of rules concerning the regulation of riding stables as required by Occupation Code, Chapter 248. (*Attachment XXVIII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING THE REPEAL OF RULES CONCERNING THE REGULATION OF RIDING STABLES, EFFECTIVE 20 DAYS AFTER THE RULES ARE FILED WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Jane Mahlow, D.V.M., M.S., Director, Zoonosis Control Division, requested approval of the

final adoption of the new rule concerning warnings retail pet stores must provide relating to reptile-associated salmonellosis to purchasers of reptiles as required by Chapter 1228, Acts of the 77th Texas Legislature, Regular Session (2001). (*Attachment XXIX*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED AN ORDER ADOPTING THE NEW RULE CONCERNING WARNINGS RETAIL PET STORES MUST PROVIDE RELATING TO REPTILE-ASSOCIATED SALMONELLOSIS TO PURCHASERS OF REPTILES, TO BECOME EFFECTIVE 20 DAYS AFTER THE RULE IS FILED WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Jane Mahlow, D.V.M., M.S., Director, Zoonosis Control Division, requested approval of final adoption of the new rule concerning the caging requirements and standards for the keeping and confinement of dangerous wild animals as required by Health Safety Code, Chapter 822. (*Attachment XXX*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING THE NEW RULE CONCERNING THE CAGING REQUIREMENTS AND STANDARDS FOR THE KEEPING AND CONFINEMENT OF DANGEROUS WILD ANIMALS TO BECOME EFFECTIVE 20 DAYS AFTER THE RULE IS FILED WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

There were no public comments.

Dr. Anzaldua announced the next meeting of the Texas Board of Health will be held on Sunday, March 24, 2002, in Fort Worth.

Dr. Anzaldua called a recess at 4:48 p.m. and reconvened at 4:49 p.m. Other Board members in attendance were Ms. Margo Scholin, Mr. George McCleskey, and Mr. Raymond Hannigan.

The Texas Board of Health went into Executive Session at 4:50 p.m. as provided in §551.071, Government Code, to discuss with its attorney the following litigation; Herrera, et. al. v. State of Texas,

et. al., in the 125th District Court of Harris County, Texas. The Texas Board of Health reconvened in public session at 5:10 p.m. No action was taken.

The meeting was adjourned at 5:12 p.m.

APPROVED: March 24, 2002

Mario R. Anzaldua, M.D., Chair
Texas Board of Health

Date